

APPEAL NO. 020564  
FILED APRIL 30, 2002

This appeal arises pursuant to the Texas Workers' Compensation Act, TEX. LAB. CODE ANN. § 401.001 *et seq.* (1989 Act). Following a contested case hearing held on February 4, 2002, the hearing officer determined that the respondent (claimant) is entitled to supplemental income benefits (SIBs) for the 19th quarter based on his inability to perform any work. The appellant (carrier) contends on appeal that the hearing officer erred in basing his decision on the fact that the claimant received SIBs for the first 18 quarters and further erred in finding for the claimant with insufficient evidence. The record does not contain a response from the claimant.

DECISION

Affirmed.

The claimant testified that the carrier paid his SIBs for quarters one through eighteen because he had no ability to work during the qualifying periods; that his condition remained unchanged during the qualifying period for the 19th quarter, June 5 through September 13, 2001; that he continues to be unable to perform work of any kind due to severe, disabling pain from his low back injury; and that he takes pain medication which affects his ability to concentrate, wears a TENS unit, and remains hopeful that he can continue to avoid spinal surgery involving screws.

The carrier contends that the evidence is insufficient to support the hearing officer's findings that the carrier paid SIBs to the claimant for the first 18 quarters based on the claimant's inability to work; that the claimant's physical condition has not improved since the date of his compensable injury and appears to have deteriorated to some degree; that there are narrative reports from Dr. S, Dr. J, and Dr. E which specifically explain how the injury causes a total inability to work; and that there is no other credible record which shows that the claimant is able to return to work. The carrier also asserts that the hearing officer erred in considering its payment of SIBs for the prior quarters.

The hearing officer is the sole judge of the weight and credibility of the evidence (Section 410.165(a)) and, as the trier of fact, resolves the conflicts and inconsistencies in the evidence (Garza v. Commercial Insurance Company of Newark, New Jersey, 508 S.W.2d 701 (Tex. Civ. App.-Amarillo 1974, no writ). We are satisfied that the challenged findings are not so against the great weight and preponderance of the evidence as to be clearly wrong or manifestly unjust. In re King's Estate, 150 Tex. 662, 244 S.W.2d 660 (1951); Cain v. Bain, 709 S.W.2d 175, 176 (Tex. 1986). We are satisfied by a careful reading of the hearing officer's decision, including all the findings, that while he obviously considered the disposition of the first 18 quarters, he based his determination of entitlement for the 19th quarter on the requirements of Section 408.142(a) and Tex. W.C. Comm'n, 28 TEX. ADMIN. CODE § 130.102(d)(4) (Rule 130.102(d)(4)) and the evidence satisfying those requirements and applicable to the 19th quarter.

The decision and order of the hearing officer are affirmed.

The true corporate name of the insurance carrier is **AMERICAN HOME ASSURANCE COMPANY** and the name and address of its registered agent for service of process is

**CORPORATION SERVICE COMPANY  
800 BRAZOS, SUITE 750, COMMODORE I  
AUSTIN, TEXAS 78701.**

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Philip F. O'Neill  
Appeals Judge

CONCUR:

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Michael B. McShane  
Appeals Judge

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Edward Vilano  
Appeals Judge